

STATE & FEDERAL STATUTE/RULE REFERENCES FOR LIVSCAN SPEC PROJECT
6/8/07

OREGON STATE STATUTE

181.010 Definitions for ORS 181.010 to 181.560 and 181.715 to 181.730. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires otherwise:

- (1) "Bureau" means the Department of State Police Bureau of Criminal Identification.
- (2) "Criminal justice agency" means:
 - (a) The Governor;
 - (b) Courts of criminal jurisdiction;
 - (c) The Attorney General;
 - (d) District attorneys, city attorneys with criminal prosecutive functions, attorney employees of the office of public defense services and nonprofit public defender organizations established under contract with the Public Defense Services Commission;
 - (e) Law enforcement agencies;
 - (f) The Department of Corrections;
 - (g) The State Board of Parole and Post-Prison Supervision;
 - (h) The Department of Public Safety Standards and Training; and
 - (i) Any other state or local agency with law enforcement authority designated by order of the Governor.
- (3) "Criminal offender information" includes records and related data as to physical description and vital statistics, fingerprints received and compiled by the bureau for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.
- (4) "Department" means the Department of State Police established under ORS 181.020.
- (5) "Deputy superintendent" means the Deputy Superintendent of State Police.
- (6) "Designated agency" means any state, county or municipal government agency where Oregon criminal offender information is required to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, licensing purposes or other demonstrated and legitimate needs when designated by order of the Governor.
- (7) "Disposition report" means a form or process prescribed or furnished by the bureau, containing a description of the ultimate action taken subsequent to an arrest.
- (8) "Law enforcement agency" means county sheriffs, municipal police departments, State Police, other police officers of this and other states and law enforcement agencies of the federal government.
- (9) "State Police" means the members of the state police force appointed under ORS 181.250.
- (10) "Superintendent" means the Superintendent of State Police. [Amended by 1963 c.547 §1; 1971 c.467 §1; 1975 c.548 §1; 1977 c.745 §46; 1981 c.905 §1; 1987 c.320 §136; 1987 c.475 §5; 1989 c.364 §3; 2001 c.104 §60; 2001 c.962 §42]

181.066 Bureau of criminal identification. (1) There is established in the Department of State Police a bureau of criminal identification which shall be operated by the department.

(2) The bureau shall:

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- (a) Install and maintain systems for filing and retrieving fingerprint data and supplemental information submitted by criminal justice agencies for the identification of criminal offenders as the Superintendent of State Police deems necessary;
- (b) Employ its fingerprint record file as a basis for identifying individuals and provide criminal offender information to criminal justice agencies while acting in the performance of their official duties;
- (c) Provide information to persons and agencies as provided in ORS 181.555 and 181.560; and
- (d) Undertake such other projects as are necessary or appropriate to the speedy collection and dissemination of information relating to crimes and criminals.

[1975 c.548 s.3 (enacted in lieu of 181.065); 1975 c.605 s.11a; 1981 c.905 s.2]

181.511 Fingerprints, identifying data, disposition report required upon arrest. (1) A law enforcement agency immediately upon the arrest of a person for a crime for which criminal offender information must be provided under ORS 181.515 shall:

- (a) Place the arrested person's fingerprints and identifying data on forms prescribed or furnished by the Department of State Police Bureau of Criminal Identification, photograph the arrested person, and promptly transmit the form and photograph to the bureau.
 - (b) If the arrest is disposed of by the arresting agency, cause the disposition report to be completed and promptly transmitted to the bureau.
 - (c) If the arrest is not disposed of by the agency, cause the disposition report to be forwarded, except as otherwise provided in section 3, chapter 553, Oregon Laws 1987, to the court that will dispose of the charge, for further action in accordance with ORS 181.521.
- (2) A law enforcement agency may record, in addition to fingerprints, the palm prints, sole prints, toe prints, or other personal identifiers when, in the discretion of the agency, it is necessary to effect identification of the persons or to the investigation of the crime charged.
- (3) A law enforcement agency, for the purpose of identification, may record and submit to the bureau the fingerprints of persons arrested for crimes for which criminal offender information is not required under ORS 181.515.

[1975 c.548 s.5 (enacted in lieu of 181.510); 1983 c.763 s.55; 1987 c.475 s.6; 1987 c.553 s.1]

181.515 Crimes for which criminal offender information is required. The following crimes are crimes for which criminal offender information must be provided:

- (1) Any felony;
- (2) Any misdemeanor or other offense which involves criminal sexual conduct; or
- (3) Any crime which involves a violation of the Uniform Controlled Substances Act.

[1987 c.475 s.4]

181.521 Transmittal of disposition report. When a court receives a disposition report from a law enforcement agency pursuant to ORS 181.511, the court shall transmit disposition information to the Department of State Police Bureau of Criminal Identification in a manner and format determined by the State Court Administrator after consultation with the bureau.

[1975 c.548 s.6a (enacted in lieu of 181.520); 1983 c.763 s.56; 1987 c.553 s.2]

181.548 Confidentiality of some records. (1) Notwithstanding the provisions of ORS 192.410 to 192.505 relating to public records the fingerprints, photographs, records and reports compiled

under ORS 137.225, 181.010, 181.511, 181.521, 181.555, 805.060 and this section are confidential and exempt from public inspection except:

- (a) As ordered by a court;
 - (b) As provided in rules adopted by the Department of State Police under ORS chapter 183 to govern access to and use of computerized criminal offender information including access by an individual for review or challenge of the individual's own records;
 - (c) As provided in ORS 181.555 and 181.560;
 - (d) As provided in ORS 181.525; or
 - (e) As provided in ORS 418.747 (5).
- (2) The records of the department of crime reports to the department and of arrests made by the department, however, shall not be confidential and shall be available in the same manner as the records of arrest and reports of crimes of other law enforcement agencies under ORS 192.501
- (3). [Formerly 181.540]

OREGON ADMINISTRATIVE RULE

OAR 257-010-0020 System Responsibilities

- (1) Maintenance and Dissemination of Criminal Offender Information. The Oregon State Police has statutory and administrative responsibility for the maintenance and dissemination of criminal offender information in Oregon.
- (2) Accuracy and Completeness of Information. Information entered into Criminal Offender Information files is based on written documents submitted to the OSP by Criminal Justice Agencies reporting their record of official action, which documents contain fingerprint or other verification as to the identity of the individual to whom the information refers:
- (a) OSP is responsible for the accuracy and completeness of information entered into the Oregon Criminal Offender Information System and any information subsequently transmitted for inclusion in the FBI Interstate Identification Index;
 - (b) This responsibility extends only to information contained in the documents as submitted to OSP.
- (3) Removal of Information. OSP is responsible for removal of information from the Oregon and Federal Criminal Offender Information Systems when required by law or court order. In the event the OSP discovers there has been an erroneous entry in criminal offender information records maintained by OSP or the FBI, OSP shall correct or purge the inaccurate information.
- (4) Entry of Information. Only terminals located at the OSP, Identification Services Section or others designated by the Superintendent of the OSP are allowed to enter, update, or modify records in the Oregon CCH File. Entry of information by other forms of electronic communications, as in the case of integration of computer systems, must be approved by the Superintendent of the OSP.
- (5) Information to Qualified Criminal Justice and Designated Agencies. OSP is responsible for providing Criminal Offender Information to qualified Criminal Justice and Designated Agencies. Such information will be furnished, after proper inquiry, in either computerized or document form.
- (6) Development of Operational Procedures. OSP is responsible for development of operational procedures to be followed by Criminal Justice and Designated Agencies permitted access to Oregon Criminal Offender Information and FBI Interstate Identification Index files.
- (7) All Criminal Offender information distributed by the OSP shall contain a notice in writing in substantially the following language: Because additions or deletions may be made at any time, a new CCH record should be requested when needed for subsequent use.

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(8) All agencies shall insofar as is feasible, taking into consideration the then existing capability of the OSP to respond, request and obtain a current criminal offender information record when that record is to be disseminated outside that agency.

(9) NCIC and NLETS Control Terminal Responsibility. OSP is the "state control terminal" for the NCIC and NLETS computer interface to Oregon and is responsible for assuring that all policies and rules for computer access to Oregon and Federal Criminal Offender Information Systems are adhered to by Oregon user agencies.

(10) System Development and Operation. OSP is responsible for providing the computer hardware and software capabilities necessary to insure secure access, efficient processing and integrity of the information stored in the Oregon Criminal Offender Information System and for interfacing to the Federal Criminal Offender Information System.

(11) Physical Security of Computer Installation. OSP is responsible for development and implementation of policies and procedures to safeguard the criminal offender information at the central computer site from accidental or malicious damage or unauthorized access or use.

(12) Audit and Inspection of the User Agencies. OSP is responsible for periodically auditing and inspecting each computer terminal location accessing Oregon and Federal Criminal Offender Information to insure compliance with state and federal law, published rules, policies, and procedures.

(13) CCH computer terminal transaction records will be maintained at and by OSP and will be made available, upon written request, to participating Criminal Justice Agencies.

Stat. Auth.: ORS 181.555, ORS 181.560(4), ORS 183.310 - ORS 183.550 & ORS 192.440
Stats. Implemented: ORS 166.291, ORS 166.412 & ORS 181.880
Hist.: DSP 2, f. 6-14-74, ef. 7-11-74, DSP 4, f. 4-22-76, ef. 4-30-76; OSP 1-1990, f. & cert. ef. 6-4-90; OSP 4-1993, f. & cert. ef. 12-20-93; OSP 1-2002, f. & cert. ef. 3-8-02

OAR 257-010-0045 Violation of Rules

(1) Willful violation of Oregon Revised Statute, Executive Order or published rules relating to the Oregon Criminal Offender Information System by any authorized agency or employee may result in immediate termination of such agency's authorization to receive such information from the Oregon and/or Federal Criminal Offender Information Systems.

(2) Reinstatement will be effected only upon demonstration by the agency that the cause of such violation has been corrected. Final determination as to the reinstatement of any agency so terminated will be the responsibility of the OSP.

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FEDERAL RULE & PUBLIC LAW

28 U.S.C. Chapter 1, Part 20 Judicial Administration, Department of Justice – Criminal Justice Information Systems

28 U.S.C. §534 National Crime Information Center

The National Crime Information Center (NCIC) operates under the authority of 28 U.S.C. §534, which permits the exchange of information "with, and for the official use of, authorized officials of the Federal Government, the States, cities, and penal and other institutions." The dissemination of CHRI contained in the III system is further governed by 28 *Code of Federal Regulations*

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(C.F.R.) §20.33, which is principally limited to “criminal justice agencies for criminal justice purposes, which purposes include the screening of employees or applicants for employment hired by criminal justice agencies

**PUBLIC LAW 105-251 [S. 2022] Crime Identification Technology Act of 1998;
National Criminal History Access and Child Protection Act**